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APPLICATION NO.		FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/856,766		08/28/2001	Harry S. Nick	UFJ-002US	2342
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LAHIVE &	& COCK	FIELD	EXAMINER		
28 STATE STREET BOSTON, MA 02109				LOEB, BRONWEN	
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				DATE MAILED: 03/26/2003	(O

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary Seminer	,		Application No.	Applicant(s)					
Examiner Bronwon M. Loeb 1936		•	09/856.766	NICK ET AL.					
## Period for Reply A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ½ MONTH(S) FROM THE MAILING DATE of this communication appears on the cover sheet with the correspondence address Period for Reply A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ½ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. **THE MAILING DATE OF THIS COMMUNICATION.** **Bet Six (s) MONTHS from the mailing date of this communication. **If the period for raph s social address in the shallow of 37 CPR 1.13(6). In no event, however, may a reply be limitly fled set or raph state of the shallow of the period for raph specified shows is loss than thin's (30) abys, a reply white the shallow of more more than 100 days. will be considered finely. **If the period for raph specified shows in the shallow of the specified for shallow of the period for raph specified to be shallowed for specified the shallow of the specified for shallowed the shallow of the specified for shallowed the specified for shallowed the specified shallowed the specified for shallowed the specified for shallowed the specified shall		Office Action Summary							
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A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. Extractions of time may be available under the provisions of 37 CPR 1.36(a). In one event, however, may a reply be timely field if the period to freely spacefied above is beas then think (30) days, a reply whith the studiory minimum of think (30) days, a reply whith the think of the period to freely spacefied above. Its meanimum teathory period will apply and will expert (36) (MCRT) from the making date of this communication. Falvars to reply whith the act or extended period for reply will, by statistic cases the spatialistic bacteries will be followed the mainting date of this communication. Falvars to reply whith the act or extended period for reply will, by statistic cases the spatialistic bacteries will be statistically as the mainting date of this communication. Falvars to reply whith the practice of the communication of the communication of the communication of the communication of the communication. Falvars to reply whith the practice of the communication of the communication of the communication of the communication. This action is FINAL. 2b) This action is non-final. 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parfe Quayle, 1935 C.D. 11, 453 O.G. 213. Disposition of Claims 4) Claim(s) 1-30 is/are pending in the application. 4a) Of the above claim(s) is/are withdrawn from consideration. 5) Claim(s) 1-30 is/are allowed. 6) Claim(s) 1-30 are subject to restriction and/or election requirement. Application Papers Order to experiment the properties of the priodity document and the properties of the priodity document and the properties of the priodity document in the date of the cartification is objected to by the Examiner. If approved, corrected drawings are required in reply to this Office action. 1) Certified copies of the priodity documents have been received i									
THE MAILING DATE OF THIS COMMUNICATION. - Extractions of time may be available under the provisions of 3 CPR 1.138(a). In no event, however, may a reply be timely filed after Str. (e) MANTH's from the mailing date of this communication. - It NO expect for reply is specified above, the maximum statutory period using pay and valle page vs. (e) (MATHS from the mailing date of this communication. - It NO expect for reply is a specified above, the maximum statutory period using pay and valle page vs. (e) (MATHS from the mailing date of this communication, even if timely filed, may reduce any second plant time adjustment. See 97 CPT 1.074(b). - Status 1) Responsive to communication (s) filed on 2a) This action is FINAL. 2b) This action is non-final. 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213. Disposition of Claims 4) Claim(s) is/are pending in the application. 4a) Of the above claim(s) is/are withdrawn from consideration. 5) Claim(s) is/are rejected. 7) Claim(s) is/are rejected to. 8) Claim(s) is/are objected to. 8) Claim(s) is/are objected to by the Examiner. 10) The drawing(s) filed on is/are: all accepted or bl objected to by the Examiner. Application Papers 9) The specification is objected to by the Examiner. 10) The proposed drawing correction filed on is: all accepted or bl objected to by the Examiner. 11) The proposed drawing correction filed on is: all accepted or long all proved, corrected drawings are required in reply to this Office action. 12) The oath or declaration is objected to by the Examiner. 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). 2) All b) Some * ol None of: 14) Acknowledgment is made of a claim for domestic priority documents have been	• •								
1	 THE MAILING DATE OF THIS COMMUNICATION. Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication. If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely. If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication. Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any 								
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2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) Notice of Informal Patent Application (PTO-152)	Attachment(s)								
3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) 6) Other: .									

Application/Control Number: 09/856,766

Art Unit: 1636

DETAILED ACTION

Election/Restrictions

1. Restriction is required under 35 U.S.C. §§ 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group I, claim(s) 1, 3-12, 13 and 15-30 in part, drawn to an isolated polynucleotide comprising a manganese superoxide dismutase regulatory element of SEQ ID No. 1.

Group II, claim(s) 1, 2, 4-12 and 14-30 in part, drawn to an isolated polynucleotide comprising a manganese superoxide dismutase regulatory element of SEQ ID No. 2.

Group III, claim(s) 3, 4, 6-12 and 15 in part, drawn to an isolated polynucleotide comprising a manganese superoxide dismutase regulatory element of SEQ ID No. 5.

2. PCT Rule 13.2 requires that unity of invention exists only when the shared same or corresponding technical feature is a contribution over the prior art. The inventions listed as groups I-III do not relate to a single general inventive concept because they lack the same or corresponding special technical feature. The "special technical feature" of Groups I-III is a manganese superoxide dismutase regulatory element which is shown by Van Camp et al (Plant Physiol 1996 112(2): 525-535; entire document, see for instance the Abstract on p. 525) to lack novelty or inventive step and does not make a contribution over the prior art. As the recited structure does not make a contribution over the prior art, unity of invention is lacking and restriction is appropriate.

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3. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

- 4. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).
- 5. It is noted that claims 6-11 are improperly multiply dependent. In responding to the restriction requirement, it is suggested that claims 6-11 be amended appropriately to correct the improper multiple dependencies.

Certain papers related to this application may be submitted to Art Unit 1636 by facsimile transmission. The faxing of such papers must conform with the notices published in the Official Gazette, 1156 OG 61 (November 16, 1993) and 1157 OG 94 (December 28, 1993) (see 37 C.F.R. § 1.6(d)). The official fax telephone numbers for the Group are (703) 308-4242 and (703) 305-3014. NOTE: If Applicant does submit a paper by fax, the original signed copy should be retained by applicant or applicant's representative. NO DUPLICATE COPIES SHOULD BE SUBMITTED so as to avoid the processing of duplicate papers in the Office.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bronwen M. Loeb whose telephone number is (703) 605-1197. The examiner can normally be reached on Monday through Friday, from 11:00 AM to 7:30 PM. A phone message left at this number will be responded to as

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soon as possible (usually no later than the next business day after receipt by the examiner).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dr. Remy Yucel, can be reached on (703) 305-1998.

The fax phone number for the organization where this application or proceeding is assigned is (703) 308-4242.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0196.

Bronwen M. Loeb, Ph.D. Patent Examiner Art Unit 1636

February 14, 2003

PATENT EXAMINE

.4.1636